

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION-INDUSTRY PENSION
FUND, et al.,**

Plaintiffs,

V.

STRATFORD NURSING & CONVALESCENT CENTER

Defendant.

Civil Action No.
1:07-cv-06780

Judge Guzman

MOTION FOR FINAL JUDGMENT BY DEFAULT

Plaintiffs move this Court, pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, to enter Default Judgment in favor of the Plaintiffs, United Food and Commercial Workers International Union-Industry Pension Fund and its Trustees (collectively “the Fund”), and against Defendant, Stratford Nursing & Convalescent Center. In support, Plaintiffs state as follows:

1. On December 3, 2007, Plaintiffs filed a complaint against Defendant to collect delinquent contributions due and owing to the Fund. When the Plaintiffs filed their Complaint, the Defendant had failed to remit contributions due to the Fund for Defendant's employees covered under the Defendant's CBA and the Fund's governing documents for the period of July 2007 through October 2007, as well as liquidated damages of 20% of the delinquent amount, interest on the unpaid contributions, interest on paid contributions for the months of April 2007,

May 2007 and June 2007, and attorneys' fees and other costs and disbursements in the action as required by ERISA Section 502(g)(2), 29 U.S.C. § 1132(g)(2).

2. The Defendant has since paid the delinquent contributions, liquidated damages, and interest.

3. The Defendant did not pay the Fund attorneys' fees and costs incurred in this matter from November 26, 2007 through January 14, 2008 in the amount of \$776.50.

WHEREFORE, Plaintiffs, the Fund, respectfully requests the Court:

4. Order Defendant, Stratford Nursing & Convalescent Center, to pay the Fund the minimum amount of \$776.50, representing the Fund's attorneys' fees incurred to date, as well as any costs that may be incurred in executing the judgment.

5. Order Defendant to pay the Fund interest on the above judgment amounts at the rate permitted by 29 U.S.C. § 1961 from the date of judgment to the date paid;

6. Order Defendant to pay the Fund all monies that Defendant is obligated to pay under its collective bargaining agreement and the governing documents of the Fund;

7. Order Defendant to pay any additional amounts which Plaintiffs may discover are owed, with statutory relief and penalties as provided by ERISA, 29 U.S.C. Section 1132(g)(2); and

8. Order that the Order and Final Judgment by Default is without prejudice to any further claim Plaintiffs may have against Defendant.

In support of this Motion, Plaintiffs submit the attached Declaration of Jeffrey S. Endick. A proposed Order and Final Judgment is also attached as Exhibit 1.

Respectfully submitted,

s/ Sherrie E. Voyles
Sherrie E. Voyles, Esq. (Bar No. 06242386)
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EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED FOOD AND COMMERCIAL WORKERS)
INTERNATIONAL UNION-INDUSTRY PENSION)
FUND, et al.,)

Plaintiffs,)

v.)

STRATFORD NURSING &)
CONVALESCENT CENTER)

Defendant.)

Civil Action No.
1:07-cv-06780

Judge Guzman

ORDER AND FINAL JUDGMENT

Upon consideration of Plaintiffs' Motion for Final Judgment by Default, pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, and of the supporting affidavits, and following due notice to Defendant, it is hereby:

ORDERED that the motion is granted and that final judgment be entered in favor of United Food and Commercial Workers International Union-Industry Pension Fund and its Trustees, Anthony M. Perrone, William T. McDonough, David S. Blitzstein, Brian A. Petronella, Roger Robinson, Kenneth R. Boyd, Walter B. Blake, William M. Vaughn, III, Stephen T. Brown, Robert J. Flacke, Richard A. Manka, and Richard D. Cox (collectively, the "Fund") as follows:

1. Judgment in the minimum amount of \$776.50, representing attorneys' fees and costs incurred by Plaintiffs from November 6, 2007 through January 14, 2008; provided, that Plaintiffs shall have the right to seek a supplemental judgment for any and all amounts that become due during pendency of this case and any additional attorneys' fees or costs incurred in the collection of contributions owed for the periods set out in this Order.

2. Interest on the above judgment amounts at the rate permitted by 28 U.S.C. Section 1961 from the date of judgment to the date paid.

It is also hereby ORDERED that Defendant is hereby ordered to:

1. Pay to the Fund all monies that Defendant is obligated to pay under its collective bargaining agreement, participation employer agreement and the governing documents of the Fund.

Since Plaintiffs have relied on information provided by Defendant or by third parties to determine the delinquency for the month of December 2007, Plaintiffs shall have the right to recover any additional unpaid principal which they may discover is owed for these months, with statutory relief and penalties as provided by ERISA, 29 U.S.C. Section 1132(g)(2).

United States District Judge

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